Service Date: December 21, 1988

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

* * * * * *

IN THE MATTER Of The Application Of the BUTTE WATER COMPANY for Authority to Increase Rates and Charges for Water Service to its Butte, Montana Customers.	)))))	UTILITY DIVISION DOCKET NO. 88.9.29 ORDER NO. 5387

ADEQUACY OF SERVICE ORDER
APPEARANCES

FOR THE APPLICANT:

James Robischon, Attorney at Law, Murphy, Robinson, Heckathorn & Phillips, P. O. Box 759, Kalispell, Montana 59903

FOR THE INTERVENORS:

Mary Wright, Staff Attorney, Montana Consumer Counsel, 34 West 6th Avenue, Helena, Montana 59620

FOR THE COMMISSION:

Garth Jacobson, Staff Attorney, 2701 Prospect Avenue, Helena, Montana 59620

Ron Woods, Rate Analyst, 2701 Prospect Avenue, Helena, Montana

BEFORE:

JOHN B. DRISCOLL, Commissioner & Hearing Examiner
HOWARD L. ELLIS, Commissioner
DANNY OBERG, Commissioner

BACKGROUND

On September 26, 1988, Butte Water Company (Applicant or BWC) filed an application with this Commission for authority to increase water rates and charges to its Butte, Montana customers on a permanent basis.

Concurrent with its filing for a permanent increase in rates BWC filed an application for an interim increase in rates of approximately 12.6 percent. The requested interim rate increase results in an annual revenue increase of approximately $489,484, or 85 percent of the proposed permanent increase.

On November 21, 1988, after proper notice, a hearing was held in the City council Chambers, Butte, Montana. For the convenience of the consuming public there was also a night session, that commenced at 7 p.m. on November 21, 1988, at the same location. The purpose of the public hearing was to consider the merits of the Applicant's proposed water rate adjustment and to consider the adequacy of service provided water subscribers in BWC's Butte, Montana service area.

While the hearing was for the purpose of considering both service related matters and the Applicant's interim rate request, this order will address only the issue of adequacy of service. The Commission dealt with interim rate relief and related issues developed on the record in this Docket in Order No. 5382.

Testimony

At the public hearing, the Applicant presented the testimony and exhibits of:

James Chelini, President and General Manager, BWC
Don Cox, Certified Public Accountant
Mike Patterson, Vice President and Operations Manager, BWC

James Chelini. James Chelini, President and General Manager of BWC testified in support of the interim rate increase. He sponsored Exhibits A, C and D. Exhibit A contained his prefiled testimony in the docket. Exhibits C and D were the response to PSC data requests and the Montgomery study, respectively. The exhibits primarily focus on the adequacy of service issues.

Don Cox. Don Cox, an accountant with Anderson Zurmuehlen & Co., testified on behalf of BWC. He sponsored into evidence Exhibit B, his prefiled testimony in the docket at hand. His testimony focused on the financial matters of the interim rate request (see Order No. 5382). He also testified on the tax costs in the docket. He cited three cases in support of the request for the treatment of income tax expenses requested by BWC.

Mike Patterson. Mike Patterson, Vice President and Operations Manager for BWC, testified exclusively on the adequacy of service and the condition of the facilities.

At the public hearing the Montana Consumer Counsel presented the testimony of two public witnesses, Fritz Daly and Dennis Sullivan. Neither of these public witnesses expressed support for the Applicant's proposed water rate increase as filed. The two

public witnesses indicated that, in their opinion, utility facilities were badly deteriorated and service provided by the Company was deficient. These witnesses proposed that any increase authorized the Applicant be in conjunction with a planned improvement of the water facilities.

FINDINGS OF FACT

10. BWC presently provides water utility service to approximately 14,069 customers in the Butte, Montana area.

Filtration of Water

11. James Chelini stated BWC presently is operating under a variance from the Safe Drinking Water Act (SDWA) issued by the Montana Department of Health and Environmental Sciences. The variance may continue until 1992. BWC must filter the water in its system in order to comply with the requirements of the SDWA of 1986. Mr. Chelini indicated during cross-examination by the Commission that BWC has taken no steps to begin the planning process for construction of a filtration plant.

12. The Montgomery study indicated the process for construction of filtration facilities must begin immediately.

> Based upon requirements of the Safe Drinking Water Act Amendments of 1986, filtration will be required of surface water sources by June

> 1, 1992. Typically a water treatment plant requires about three years from start of predesign studies to plant start-up. To meet the 1992 compliance date, such a project would have to begin by June 1, 1989 at the latest. Montgomery study p. 9-5

13. Because of the lack of filtration facilities BWC cannot use its main supply line from the Big Hole water source during the spring run-off.

> Over 50% of our annual water supply comes from the Big Hole River, with 80% coming from the Big Hole River during the peak summer months. The quality in relation to color, taste and smell is poor. During spring run-off, we must discontinue the use of most of this water because of turbidity, color and taste. Chelini Prefiled Testimony p. 3.

Distribution

14. Mr. Chelini indicated in his prefiled testimony that BWC repairs over 500 leaks a year in its distribution system. This is "more than all five (5) of the other major cities in Montana combined." Chelini prefiled testimony p. 7. Specifically BWC repaired the following number of leaks on its distribution system during the past five years:

	Leaks Repaired	Repair Costs

1984	506	N/A
1985	528	N/A
1986	417	$ 247,525.00
1987	480	$ 431,868.00
1988 (through Oct.)	472	$ 285,833.00

(Response to PSC Data Request No. 3)

15. During cross-examination Mr. Chelini indicated, each leak represented a service interruption to the customers of BWC. Mike Patterson testified that the BWC customers suffered service interruptions in approximately one-third of those repairs.

16. The Montgomery study indicated the distribution system was in very poor condition. "The distribution system requires immediate attention in a number of areas, many of which are currently experiencing up to seven or more leaks per year in mains located within a single city block." Montgomery study p. 8-8.

17. Mr. Chelini indicated in cross-examination, he considered the distribution system to be inadequate. Mr. Patterson indicated the distribution system suffered up to 35 percent line loss. He considered parts of the system inadequate.

18. BWC in response to PSC Data Request No. 10 described the condition of the distribution system as follows:

> The distribution lines in many parts of the city are extremely old and deteriorated from electrolysis and corrosive soil composition. The breaks in our pipes cause water service to be interrupted. Pressure related problems arise from undersized mains within the system and from inadequate distribution system storage facilities. Much of the particulate is built into the system. Wood line suck-ins provide additional sand and the flaking off of wood particulate adds color and debris.

Pressure

19. Mike Patterson indicated some BWC customers suffer low water pressure. He indicated an area east of Harrison Avenue and below French Street as vulnerable to low pressure problems. He attributed the low pressure problems in this area to 2 inch water lines. The water pressure in this area could get as low as 25 pounds per square inch (psi). This would probably result in the pressure dipping below acceptable minimum standards in fire flow conditions. He said most of the low pressure complaints came from this area.

20. The Montgomery study indicated that there are areas of both high and low pressure throughout the system. "{T}hese high pressures contribute to distribution system losses and possibly to some of the line breakage within the system which contains many old and deteriorated mains and service lines." Montgomery study p. 8-5. "Presently, in many areas, these pressures are probably reduced due to corroded, leaking or partially blocked lines. ... The

complaints about reduced pressures occur primarily during peak demands..." id.

Fire Hydrants

21. Mr. Chelini indicated in the response to PSC Data Request No. 15 that the fire hydrants were sub-standard or in deteriorated condition. "Because of the age of our hydrants, many are without break-away safety flanges or steamer connections."

22. The Montgomery study identified at least one fire hydrant that apparently was inoperative because it could not be opened. The study identified other hydrants that were in poor condition.

> This review of a very limited number of existing fire hydrants indicates that many of the hydrants are leaking and in deteriorated condition and certainly should be repaired to eliminate leakage and/or replaced under a systematic replacement program. During the winter, the Butte Water Company currently has a maintenance person who inspects hydrants on a regular basis to determine their condition and to inspect for leakage which would cause winter freeze-up. Montgomery study p. 8-6.

23. Mr. Patterson testified many hydrants are old and do not permit the Butte-Silver Bow fire department to fully implement its fire apparatus. Specifically the old fire hydrants limit the pumping capabilities of the new fire trucks.

Storage

24. Mr. Chelini stated, the distribution system's water storage for the south side of Butte is inadequate. In response to PSC Data Request No. 15, Chelini said, "{i}n town storage for distribution is inadequate and does not meet current standards. ... Existin (sic) sources of supply can meet future demands only if water is properly collected, transported and adequate storage provided..."

25. The Montgomery study stated the Moulton and South Side reservoirs are in poor condition. The study indicated the present South Side reservoir capacity is 1,000,000 gallons. The needed capacity for the south side is 9,000,000 gallons. The study further stated:

> As indicated previously, the storage on the south side is less than the required capacities and the north side far exceeds that required. The existing distribution system does not allow the transmission of this excess north capacity to the south system, and therefore will dictate construction of new storage facilities on the south system.
>
> * * * * *
>
> {T}he West Side Reservoir alone far exceeds the required capacity in the North System. However, the West Side Reservoir is not covered and therefore is not acceptable for treated water storage. The South Side Reservoir does not meet capacity requirements and currently is also not covered which will not meet standards for treated water storage. The Basin Creek Reservoir which currently provides for the South System is unacceptable for treated water and therefore not available for storage for future considerations. Montgomery study pp. 8-11 and 8-15.

26. Mr. Chelini described the difficulties of obtaining source water during the spring run-off period. The run-off causes turbidity in excess of variance standards. He indicated that during periods of high turbidity the steel Big Hole Line No. 3 could not be used. BWC then uses Big Hole Line Nos. 1 and 2 as the only transmission source from the Big Hole. These lines are the only ones capable of supplying the West Side reservoir. BWC relies on Basin Creek reservoir as its primary water supply during the periods Big Hole Line No. 3 cannot be used.

> When turbidity exceeds standards, Butte Water Company discontinues the use of the 36" steel line, and we are limited to water from the Big Hole by way of our Southfork Reservoir, where we can treat. During this period, Butte Water Company must use the limited storage at Basin Reservoir to supply the city. Prefiled Chelini testimony p. 7.

27. Mr. Chelini described the source water storage as follows:

> The Big Hole River theoretically has adequate supply or capacity, and, under normal precipitation, reliability has been good. The water quality, including turbidity, color and taste, is poor and is the main reason for complaints from our water users. During the spring run-off, we have turbidity, color and taste; in late summer, we have taste and some color.
>
> The Basin Creek Reservoir has about 36 days storage, based on transmission of 10 million gallons daily. The supply is limited to about 4.5 million gallons daily, with 1.5 million gallons daily of the total from second water rights. Because the supply is limited in relation to the transmission, Big Hole

water is pumped through the community to recharge the reservoir. The pumping head is 841 feet. The quality of Basin Creek is good, and the Big Hole water used for recharging the reservoir is mixed at the reservoir, where some settling takes place.

The reliability of the Basin Creek Reservoir depends on recharging from the Big Hole, which depends on our wood transmission system, and some of our distribution system. Supply is inadequate from Basin/Fish Creek, and recharging from the Big Hole is not dependable.

The Moulton storage is adequate in relation to its source and transmission. Reliability and quality are also adequate at this time.

The system suffers from three months of poor water quality from the Big Hole River, followed by three months of peak usage, both causing drawdowns of limited stored water. Chelini Prefiled Testimony pp., 6, 7.

Transmission

28. Mr. Chelini stated in his prefiled testimony:

> Our transmission system has four wood lines constructed at the turn-of-the-century, some of which are still in service and must be abandoned. The remaining sections of the two 24" wood lines from the Big Hole require repair crews five days per week. The two lines, designed for about 10 million gallons daily, are not dependable and experience a high rate of failure. Chelini Prefiled Testimony, p.4.

29. In response to PSC Data Request Nos. 1 and 2, BWC provided the following information about the leaks and repair costs on the Big Hole and Basin Creek lines respectively.

	Big Hole #1 and #2		Big Hole #3	
	Leaks	Cost	Leaks	Cost

1986	162	$ 68,934	5	$ 615
1987	147	42,012	6	3,231
1988 thru Oct. 1	102	100,619	4	615

Basin Creek

	Line #1		Line #2		Line #3	
	Leaks	Cost	Leaks	Cost	Leaks	Cost
1986	260	$ 29,260	244	$ 6,911	6	$4,460
1987	*200	70,512	**225	83,181	4	3,281
1988	340	233,506	2	7,177		

* Lines one and two combined in October 1987
** After combined 50 leaks

30. In response to PSC Data Request No. 5, BWC indicated the Big Holes Line Nos 1 and 2 each had a design capacity of 10 mgd. The present sustained operating capacity of the two lines combined is limited to 3.5 mgd. During cross-examination on this data response, Mr. Chelini acknowledged the maximum sustainable operating efficiency for Big Hole Line Nos 1 and 2 is limited to 17.5 percent. Mike Patterson said these lines have lasted past their useful service life and are operating on borrowed time. Mr. Patterson characterized the Big Hole Line Nos. 1 and 2 as inadequate.

31. The Montgomery study described the Big Hole Line Nos. 1 and 2 as follows:

> The Big Hole lines No. 1 and No. 2 from the Big Hole pumping station to South Fork Reservoir are, for the most part, constructed of wood stave. These lines were also inspected in October 1987, and found to be in generally poor condition, due to age. The lines were tested for leakage, and were found to have a 28 percent and 20 percent loss rate,

> respectively for lines No. 1 and No. 2. The capacity of these lines is controlled by the Big Hole pumps. Under the existing pumping configuration, the capacities of lines No. 1 and 2 were calculated to be 10.0 mgd, each. However, due to the condition of the pipelines, BWC reports that a maximum of only 3.5 mgd can actually be pumped through these lines before major leakage problems occur. Montgomery study pp. 5-9 and 5-10.

32. Mr. Patterson further explained that these lines could not handle any more volume because the lines would "blow out" with any added pressure. He also indicated the pumps could not be shut off because the lines would collapse without water pressure to hold them together. He said Big Hole Line Nos. 1 and 2 provide the only source of water for the West Side reservoir. A major break in the lines could result in BWC not being able to recharge the West Side reservoir and thereby result in a service interruption to the customers served by that reservoir.

33. BWC listed its criteria for abandoning transmission lines as follows:

1. Leaks, Number and Frequency.

2. Transmission Pipeline Reliability.

3. Water Loss.

4. Public Exposure.

(Response to PSC Data Request No. 4.) Based upon that criteria, Mr. Chelini indicated during cross-examination that all of the

wooden pipelines should be abandoned as soon as practical. He admitted the pipelines would have already been abandoned if other lines were available to transport the needed water. He stressed that but for the financial difficulties of the company, new pipelines would be built or possibly an alternative source of supply obtained.

34. Mr. Chelini indicated BWC combined Basin Creek Line Nos. 1 and 2 in order to reduce water loss. "The flow tests conducted on the old Basin Creek Line Nos. 1 and 2 resulted in leakage estimates of 58 and 62 percent, respectively. The lines are primarily made of wood staves, some of which date back to 1892." Montgomery study pp. 5-7 and 5-8. The study indicated the combined line suffered a water loss percentage of 15 percent. However, the leak repair information listed above indicates continued problems with this combined lines. Mr. Chelini stated in cross-examination that the combined line was repaired with sections from the abandoned line.

35. As a result of the numerous leaks in the transmission and distribution lines, BWC suffers difficulties in obtaining liability insurance.

> Butte Water Company liability exposure in the Basin Creek area is increasing because of residential development. Many claims have been paid and more are pending. The practice of settling claims for damage in this area go back over ten (10) years. With this type of liability exposure, our insurance and

> deductible will continue to increase. Chelini Prefiled Testimony p. 5.

Mr. Chelini stated because of the numerous leaks occurring on the transmission and distribution system, "{o}ur ability to obtain insurance is threatened, and our costs will continue to increase."

36. BWC stated in their response to PSC Data Request No. 8:

> The claims made, claims settled, and the claims pending are as follows. We also have accepted some claims which we cannot finalize until our lines are removed or replaced. To restore the property only to have it wash out again is not good logic so we have agreed to restore the property when meaningful change has occurred.

Finance Problems

37. Mr. Chelini indicated in his prefiled testimony that BWC is unable to obtain any financing for the necessary capital improvements. He attributed the failure to attract financing to the companies poor financial condition, the problems with regulatory inconveniences and the inability of the company to demonstrate to lenders, it can service debt.

DISCUSSION

38. Section 69-3-101, MCA, defines a utility as follows:

> Meaning of term "public utility". (1) The term "public utility", within the meaning of this chapter, shall embrace every corporation, both public and private, company, individual, association of individuals, their lessees, trustees, or receivers appointed by any court whatsoever, that now or hereafter

> may own, operate, or control any plant or equipment, any part of a plant or equipment, or any water right within the state for the production, delivery, or furnishing for or to other persons, firms, associations, or corporations, private or municipal:
>
> * * * *
>
> (e) except as provided in chapter 7, water for business, manufacturing, household use, or sewerage service, whether within the limits of municipalities, towns, and villages or elsewhere; ...

39. Section 69-3-201, MCA, reads as follows: "Utilities to provide adequate service at reasonable charges. Every public utility is required to furnish reasonably adequate service and facilities. ..." (emphasis supplied).

40. Section 69-3-324, MCA, provides as follows:

> Initiation of action by commission itself. The commission may at any time, upon its own motion, investigate any of the rates, tolls, charges, rules, practices, and services and after a full hearing as provided in this part may make by order such changes as may be just and reasonable, the same as if a formal complaint had been made. (emphasis supplied).

41. Section 69-3-330(3), MCA, further specifies: "(3) If the commission finds that ... the service is inadequate or any reasonable service cannot be obtained, the commission may substitute therefor other regulations, measurements, practices, services, or acts and make such order relating thereto as is just and reasonable."

42. The Montana Supreme Court outlined the PSC's jurisdiction to supervise utility services in Intermountain Telephone and Power Co. v. Montana Public Service Regulation, 651 P.2d 1015, _____Mont._____ (1982). The court stated:

> Section 69-3-102, MCA, gives the PSC supervision over and regulation of public utilities. Section 69-3-201, MCA, mandates that every public utility provide "reasonably adequate service and facilities." If the PSC is to supervise utilities adequately, it must be able to ascertain whether or not a utility is providing "reasonably adequate service." Therefore, the PSC was within its authority when it issued the October 27, 1980 order stating that Intermountain was not provided "reasonably adequate service."

43. The Montana Supreme Court in City of Polson v. PSC, 473 P.2d 508, 155 Mont. 464 at 474 (1970) outlined the duty of public utilities to provide adequate service.

> It is the undeniable duty of a public utility to furnish adequate service within its service area. Section 70-105, R.C.M 1947 (recodified as 69-3-201) sets forth this duty in specific language:
>
> > "Every public utility is required to furnish reasonably adequate service and facilities."
>
> To permit a utility to deny service on the grounds that its facilities are in poor condition would be condoning actions contrary to the obligations and duties of a public service utility to provide reasonably ade quate service through facilities which the public can depend on.
>
> * * * * *
>
> {T}he utility must have facilities suitable to furnish services as per its rate schedule. It follows that a utility cannot refuse service simply because its distribution system is in

> poor condition and may be further damaged. A refusal on these grounds may be tantamount to a violation of the utility's duty to "furnish reasonably adequate service and facilities."

44. Based on the foregoing, the Commission has the statutory duty to assure that the ratepayers receive adequate service at reasonable rates. The Commission finds, based upon substantial evidence taken from the testimony, exhibits and BWC's officials' own admission, that certain BWC facilities are inadequate and in need of immediate improvement.

45. The Commission's duty to assure adequate service is broad. Not only must the service be adequate today, but it also must be available in the reasonably foreseeable future. In light of the serious facility inadequacies and the service related problems caused thereby, the Commission concludes BWC is providing inadequate service to some of its customers. BWC will in the foreseeable future fail to provide adequate service to many of its customers if corrective actions are not immediately taken.

46. The Commission, by this order, does not question the attempts of BWC to begin planning for future improvements to the utility. However, because of the statutory responsibilities, the Commission finds it necessary to order improvements to the facilities of BWC.

47. Inadequate facilities. The inadequate facilities that require immediate improvements are outlined as follows:

1) Filtration Facilities. BWC lacks filtration facilities. As indicated, BWC must construct filtration facilities by 1992 in order to comply with the Safe Drinking Water Act of 1986. The filtration facility is needed not only to meet the SDWA requirements but also reduce the color, smell, and dirty water complaints made by the BWC customers. This facility is also needed to enable BWC to fully utilize the water from Big Hole Line No. 3 and to avoid unnecessary reliance on the Basin Creek system. Without filtration the Big Hole Line No. 3 transmission system cannot be used during periods of spring run-off. BWC has failed to begin the planning for the filtration facilities.

It is imperative that BWC begin the planning process in 1989 in order to meet the 1992 deadline. The Commission hereby directs BWC to commence the formal planning and design process no later than those dates outlined in the Montgomery study and have a fully operational filtration system in place no later than 1992.

2) Distribution System. BWC's distribution system is clearly inadequate. The system is antiquated and badly in need of improvements. Water pressure in certain areas of the city is insufficient. BWC customers are paying higher rates due to excessive repairs to the system. Money is wasted on repairs to a system that should be replaced, not merely patched. The Commission directs BWC to commence improvements to the distribution system

beginning in the 1989 construction season. The Commission recognizes it is impossible to complete the necessary im provements immediately. But the Commission expects a realistic timetable developed by BWC for the completion of the improvements, that result in improved pressures and a substantial reduction in lost and unaccounted for water, over the next few years.

3) Distribution Water Storage. The water storage reservoirs for the BWC are inadequate. It is necessary to make improvements to these reservoirs as outlined in the Montgomery study. The South Side reservoir requires immediate improvements and/or replacement. Some of the other reservoirs require being covered to meet Safe Drinking Water Act standards. The Commission directs BWC to commence planning, design and construction of the necessary improvements to the distribution system water storage to coincide with the construction of the filtration facilities.

4) Transmission system. Certain parts of the BWC's water transmission system are clearly inadequate. The wooden Big Hole Line Nos. 1 and 2 should be replaced or abandoned. These lines are the only transmission facilities capable of supplying the West Side reservoir. These lines are in terrible condition and a failure to these lines could cause a major service interruption for customers serviced by the West Side reservoir. The Commission directs BWC to find an alternative method of supplying water to the West Side

reservoir immediately. This alternative must be in place in 1989 if it is practically feasible. BWC must take whatever reasonable steps necessary to meet this directive.

The Commission directs BWC to abandon all of the antiquated wooden lines as soon as practically possible.

5) Fire Hydrants. Many of BWC's fire hydrants are inadequate and in need of replacement. The Commission directs BWC to begin a program of replacing substandard fire hydrants. BWC should identify the most troublesome hydrants and replace them in 1989. It should then develop a program to replace all substandard hydrants over the next 10 years.

48. The Commission recognizes that this order places a heavy burden on BWC. However, every utility in this state should recognize that it cannot be permitted to let its facilities become so dilapidated so as to threaten the health, welfare and safety of its customers. Utilities that enjoy monopolistic privileges must bear the burden of providing reasonably adequate services and facilities. No utility should be heard to argue that it cannot make necessary improvements because it does not have the financial resources. If the current management and/or owners of BWC are unable or unwilling to discharge their obligations in the operation of the public utility then they should arrange for some other entity to conduct those services.

49. In recognition of the capital improvements directed by this order and the limited financial resources of BWC the Commission makes the following observations:

1) In order to avoid regulatory delays, the Commission would entertain expedited proceedings to place newly constructed used and useful facilities in the rate base.

2) While the Commission will not pre-approve any projects it is understood that the improvements outlined in this order are clearly needed. If BWC makes these improvements in a prudent fashion then BWC can expect these capital improvements to be placed in its rate base, because in all likelihood they will be used and useful.

3) The Commission may be amenable to creative financing approaches taken by BWC so long as they do not violate statutory limitations or reasonable finance practices.

4) The fact that the Commission is willing to make the preceding observations should not be viewed as a precedent by any of the parties. The circumstances in this care are unique. It is only the compelling need for immediate action in the area of water system improvements that causes the Commission to make these commitments. No other utility or party should expect this Commission to necessarily take similar action with other special plant improvement programs.

50. At the upcoming rate hearing in Docket No. 88.9.29 the Commission will direct questions to BWC personnel regarding the Company's progress towards meeting the goals outlined in this order. It is anticipated that the rate hearing will be held in March, 1989. By the time this hearing is held the Company should be able to provide the Commission with a list of improvements that will occur during the 1989 construction season.

CONCLUSIONS OF LAW

51. The Commission has the statutory authority to supervise, regulate and control public utilities.

52. Butte Water Company is a public utility within the definition of 69-3-101, MCA, and thereby subject to the jurisdiction of the Montana Public Service Commission.

53. The Commission has the statutory duty to enforce Montana's laws and they relate to Montana's public utilities.

54. Utilities are required by statute to render "reasonable adequate service and facilities" for their customers in their service area.

55. The Commission has the authority to ensure that reasonable service is rendered by the utility and that its facilities are reasonably adequate and upon its own motion conduct investigations as to the adequacy of services and facilities of a utility.

56. The Montana Public Service Commission hereby finds that Butte Water Company has inadequate services and facilities in violation of its statutory duties.

ORDER

1. Butte Water Company is ordered to commence the capital improvement projects herein identified.

2. Butte Water Company shall have sixty (60) days from the date of this order to present a plan to the Commission on how it will comply with this order.

3. Any violation of this order shall result in the Commission taking appropriate sanctions against Butte Water Company.

DONE AND DATED this 19th day of December, 1988 by a vote of 3 - 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

_____
JOHN B. DRISCOLL, Commissioner

_____
HOWARD L. ELLIS, Commissioner

_____
DANNY OBERG, Commissioner

ATTEST:

Ann Purcell
Acting Commission Secretary

(SEAL)

NOTE: Any interested party may request that the Commission reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.